IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION No. 963 OF 2006
IN
FIRST APPEAL No. 407 OF 2003

Periswamy Ganesh @ Thamil Vaman **APPLICANT**

Vs.

Bom. Municipal Corpn. & Ors. **RESPONDENTS**

Mr. D. D. Belosay, Advocate for Applicant.

Mr. J. J. Xavier, Advocate for Respondent BMC.

CORAM : Dr. S. RADHAKRISHNAN, J.

DATE : JULY 14, 2006.

P.C.

. Heard the learned counsel for the Applicant and Respondent Nos. 1 and 2. None appears for Respondent Nos. 3 and 4 though served. By the present Civil Application, Applicant is seeking appointment of Court Receiver, High Court at Bombay under Order 40, Rule 1 of Code of Civil Procedure to take charge of the suit premises and articles, belonging to the Applicant, lying therein. Applicant by this Application is seeking relief that the Respondent Nos. 3 and 4 ought not to part possession or create any third party interest by induct third party therein. Perused the judgment of the Trial Court, wherein the Trial Court categorically held that the present Appellant was not in actual physical possession of the suit premises. The finding of Trial Court is that the defendants were not in illegal occupation of the suit premises and as such relief of mandatory injunction, directing defendant No.3 and/or any other person to remove themselves from suit land, was also rejected. In the aforesaid facts and circumstances, the Civil Application is made absolute

in terms of prayer Clause (b).

[Dr. S. RADHAKRISHNAN, J.]